

No. 24-11996

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Jane Doe et al.,
Plaintiffs-Appellees,
v.
Surgeon General, State of Florida et al.,
Defendants-Appellants.

Appeal from the United States District Court for the Northern District of Florida,
No. 4:23-cv-114 (Hinkle, J.)

**BRIEF OF AMICI CURIAE TRANSSOCIAL, SPEKTRUM HEALTH, INC.,
TRANSGENDER HEALTH EDUCATION NETWORK, AND SUNSERVE
IN SUPPORT OF PLAINTIFFS-APPELLEES MOTION FOR
RECONSIDERATION OF AUGUST 26, 2024 ORDER GRANTING A STAY
PENDING APPEAL**

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and 11th Circuit Rule 26.1-1, undersigned counsel for *amici curiae* SPEKTRUM Health, Inc. TransSocial, Transgender Health Education Network, Amicus and SunServe certifies that, in addition to the list of interested persons provided in the Certificates of Interested Persons and Corporate Disclosures Statements filed by Appellants, Appellees, and other amici, the following persons and entities have an interest in the outcome of this case:

1. Abdul-Latif, Hussein, *Amicus*
2. Academic Pediatric Association, *Amicus*
3. Ackerman, Scot, *Defendant*
4. Ahmed, Aziza, *Amicus*
5. Alstott, Anne, *Amicus*
6. American Academy of Child and Adolescent Psychiatry, *Amicus*
7. American Academy of Family Physicians, *Amicus*
8. American Academy of Nursing, *Amicus*
9. American Academy of Pediatrics, *Amicus*
10. American Association of Physicians for Human Rights, Inc., *Amicus*
11. American College of Obstetricians and Gynecologists, *Amicus*
12. American College of Osteopathic Pediatricians, *Amicus*

13. American College of Physicians, *Amicus*
14. American Medical Association, *Amicus*
15. American Pediatric Society, *Amicus*
16. Andersen, Alison, *Counsel for Amicus*
17. Antommaria, Armand, *Dekker Witness*¹
18. Archer, Phil, *Former Defendant*
19. Archer, Phil, *Former Defendant*
20. Aronberg, Dave, *Former Defendant*
21. Association of American Medical Colleges, *Amicus*
22. Association of Medical School Pediatric Department Chairs, Inc.,
Amicus
23. Baker, Kellan, *Dekker Witness*
24. Bakkedahl, Thomas, *Former Defendant*
25. Barsoum, Wael, *Defendant*
26. Bartlett, Bruce, *Former Defendant*
27. Basford, Larry, *Former Defendant*
28. Beato, Michael, *Counsel for Defendants*
29. Bell, Daniel, *Former Counsel for Defendants*

¹ Pursuant to the District Court Final Order (Doc. 223, at 2-3), the record in this case also relies on the “evidence presented during the trial of a separate case in this court with overlapping issues, *Dekker v. Weida*, No. 4:22cv325-RH-MAF.” The *Dekker* case is on appeal in this Court. 23-12155.

30. Benson, Matthew, *Defendant*
31. Biggs, Michael, *Dekker Witness*
32. Blickenstaff, David, *Counsel for Amicus*
33. Boe, Bennett, *Former Plaintiff*
34. Boe, Brenda, *Former Plaintiff*
35. Brackett, John Matthew, *Dekker Witness*
36. Bridges, Khiara, *Amicus*
37. Brodsky, Ed, *Former Defendant*
38. Bruggeman, Brittany, *Witness*
39. Bruno, Nichole, *Plaintiff Gavin Goe's Doctor*
40. Campbell, Jack, *Former Defendant*
41. Cantor, James, *Dekker Witness*
42. Chriss, Simone, *Counsel for Plaintiffs*
43. Clemens, Jonathan, *Witness*
44. Coe, Carla, *Former Plaintiff*
45. Coe, Christina, *Former Plaintiff*
46. Coffman, Gregory, *Defendant*
47. Cohen, David, *Amicus*
48. Cohen, I. Glenn, *Amicus*
49. Creegan, Chris, *Defendant*

50. Cruz Evia, Rebecca, *Former Plaintiff*
51. Cryan, Michael, *Counsel for Amicus*
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53. Dandeneau, Debra, *Counsel for Amicus*
54. Dekker, August, *Dekker Plaintiff*
55. Derick, Amy, *Defendant*
56. Di Pietro, Tiffany, *Defendant*
57. Diamond, David, *Defendant*
58. Doe, Jane, *Plaintiff*
59. Doe, Susan, *Plaintiff*
60. Doe, Jane, *Dekker Plaintiff*
61. Doe, John, *Dekker Plaintiff*
62. Doe, Susan, *Dekker Plaintiff*
63. Donovan, Kevin, *Dekker Witness*
64. Ducatel, Watson, *Defendant*
65. Dunn, Chelsea, *Counsel for Plaintiffs*
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67. Edmiston, Kale, *Dekker Witness*
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69. English, Jeffrey, *Dekker Witness*

70. Erchull, Christopher, *Counsel for Plaintiffs*
71. Florida Agency for Healthcare Administration, *Dekker Defendant*
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73. Florida Board of Osteopathic Medicine, *Former Defendant*
74. Florida Chapter of the American Academy of Pediatrics, *Amicus*
75. Foe, Fiona, *Former Plaintiff*
76. Foe, Freya, *Former Plaintiff*
77. Fox, Amira, *Former Defendant*
78. Galarneau, Charlene, *Amicus*
79. Garcia, Maria, *Defendant*
80. Ginsburg, Maya, *Counsel for Plaintiffs*
81. Gladson, William, *Defendant*
82. Goe, Gavin, *Plaintiff*
83. Goe, Gloria, *Plaintiff*
84. Goldberg, Noah, *Counsel for Amicus*
85. Goodman, Kenneth, *Witness*
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87. Grossman, Miriam, *Dekker Witness / Third-party*
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90. Hart, Joseph, *Former Counsel for Defendants*
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95. Hunter, Patrick, *Defendant*
96. Hutton, Kim, *Dekker Witness*
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98. Isasi, William, *Counsel for Amicus*
99. Jackson, Valerie, *Defendant*
100. Jacobs, Arthur, *Counsel for Former Defendants & Defendant*
101. Janssen, Aron Christopher, *Dekker Witness & Witness*
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103. Justice, Nicole, *Defendant*
104. K.F., *Dekker Plaintiff*
105. Kaliebe, Kristopher Edward, *Dekker Witness*
106. Kamody, Rebecca, *Amicus*
107. Kang, Katelyn, *Counsel for Amicus*
108. Karasic, Dan, *Dekker Witness & Witness*
109. Kirsh, William, *Defendant*

110. Kramer, Brian, *Former Defendant*

111. Kuper, Laura, *Amicus*

112. Ladapo, Joseph, *Defendant*

113. Ladue, Jade, *Dekker Plaintiff*

114. Langford, Vernon, *Witness*

115. Lannin, Cortlin, *Counsel for Amicus*

116. Laidlaw, Michael, *Dekker Witness*

117. Lappert, Patrick, *Dekker Witness*

118. Larizza, R.J., *Former Defendant*

119. Levi, Jennifer, *Counsel for Plaintiffs*

120. Levine, Stephen, *Dekker Witness & Witness*

121. Loe, Linda, *Former Plaintiff*

122. Loe, Lisa, *Former Plaintiff*

123. Lopez, Susan, *Former Defendant*

124. Lynch, Myles S., *Counsel for Defendants*

125. Madden, Ginger, *Former Defendant*

126. Mandelbaum, Sara, *Counsel for Plaintiffs*

127. Manian, Maya, *Amicus*

128. Marstiller, Simone, *Dekker Former Defendant*

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135. Nangia, Geeta, *Dekker Witness*
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139. Oberman, Michelle, *Amicus*
140. Olson-Kennedy, Johanna, *Dekker Witness*
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150. Pope, Kai, *Former Plaintiff*
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158. Romanello, Nicholas, *Defendant*
159. Rothstein, Brit, *Dekker Plaintiff*
160. Rundle, Katherine, *Former Defendant*
161. Schechter, Loren, *Dekker Witness & Witness*
162. Scott, Sophie, *Dekker Witness*
163. Shumer, Daniel, *Dekker Witness & Witness*
164. Silbey, Jessica, *Amicus*
165. Silverman, Lawrence, *Counsel for Plaintiffs*
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167. Society for Adolescent Health and Medicine, *Amicus*
168. Society for Pediatric Research, *Amicus*
169. Society of Pediatric Nurses, *Amicus*

170. Spektrum Health, Inc., *Amicus*
171. Stafford, William, III, *Counsel for Defendants*
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173. Stoll, Christopher, *Counsel for Plaintiffs*
174. SunServe, *Amicus*
175. Szilagyi, Nathalie, *Amicus*
176. Transgender Health Education Network, *Amicus*
177. TransSocial, *Amicus*
178. Ulrich, Michael, *Amicus*
179. Van Meter, Quentin, *Dekker Witness*
180. Van Mol, Andre, *Dekker Witness*
181. Vazquez, Paul, *Witness*
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188. Weaver, Cynthia, *Counsel for Plaintiffs*
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190. Whitaker, Henry, *Counsel for Defendants*
191. Williams, Gregory, *Defendant*
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195. Zachariah, Zachariah, *Defendant*
196. Zanga, Joseph, *Dekker Witness*

The *amici curiae* further state that they are nonprofit, non-partisan corporations, and they have no parent corporation, and no publicly-held corporation has any form of ownership interest in the *amici curiae*.

/s/ Angela Vigil
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Counsel for Amici Curiae

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INTEREST OF AMICI CURIAE

The amici submitting this brief are a group of four Florida nonprofit organizations that serve the LGBTQ+ community with medical, legal, counselling, and other necessary services. The four nonprofits on whose behalf this brief is being submitted serve, counsel, and treat transgender youth regularly. All amici share an interest in protecting the daily needs of their clients as well as the integrity of the services that they provide to transgender Floridians on a regular basis. The ruling in this case will have an adverse impact on how they are able to operate with the transgender community and even the greater LGBTQ+ community in Florida.

TransSOCIAL is a nonprofit organization located in Miami, FL, that advocates for the transgender community in South Florida while simultaneously serving the LGBTQ+ community at large. Focused mostly on the “T” in LGBTQ+, TransSOCIAL is aware of the adversity the transgender community faces in Florida. To this end TransSOCIAL provides legal resources like legal assistance with insurance denials and name changes, mental health referrals, estate planning, and wage theft.

SPEKTRUM Health is a nonprofit organization located in Orlando, FL, that serves the LGBTQ+ community in the Greater Orlando area and nationwide using virtual health services. SPEKTRUM Health’s mission is to provide top quality comprehensive primary healthcare options for LGBTQ+ individuals. SPEKTRUM

provides some very necessary medical services in the LGBTQ+ community including primary care, mental health counseling, HIV treatment and prevention, gender affirming treatment (GAT), Med-Psych management, and other STI treatment and prevention.

SunServe is a nonprofit organization located in Wilton Manors, FL, advocating for the entire LGBTQ community in South Florida. SunServe's mission is to provide critical life assistance and professional mental health services with an emphasis on economically disadvantaged, marginalized youth, adults and seniors in the greater South Florida metropolitan area. To this end SunServe provides the South Florida LGBTQ+ community with mental health resources, name and gender marker change assistance, HIV/AIDs and PrEP Resources, psychotherapy, hormone replacement therapy, assistance with signing-up for food stamps, employment resources, and helps establish connections with other resources in the community.

Transgender Health Education Network ("THEN") is a nonprofit organization that serves the greater North Central Florida region, bringing together a network of healthcare providers that share the goal of offering informed and compassionate care to Transgender and Gender Diverse individuals. Quality affirming healthcare is challenging to access for Transgender and Gender Diverse individuals, especially in rural areas like North Central Florida. THEN seeks to address inequities in access to care by identifying affirming and informed healthcare providers and linking those

providers to a network of like-minded colleagues. THEN also aims to provide up-to-date continuing education in transgender healthcare.

SUMMARY OF ARGUMENT

Since 2021, Florida's governor has proposed and the legislature has enacted a series of laws that restrict the rights of LGBTQ+ individuals and specifically seek to dehumanize the transgender community. These laws are part of an organized ongoing campaign against Florida's LGBTQ+ community. One of the enunciated goals of this campaign is to "eradicate transgenderism" by which the proponents of these laws mean the ability of transgender people to live openly and safely as transgender.²

Transgender, non-binary, and gender nonconforming individuals are some of the most vulnerable and misunderstood members of that community. By enacting sweeping legislation that affects all members of the LGBTQ+ community, but specifically targets this extremely vulnerable group, the Florida legislature has sought to deprive these individuals of longstanding rights. Hidden behind misleading catchphrases such as "Let Kids Be Kids" and "Parental Rights," the laws are anything but that. Instead, these laws reflect the Florida legislature's hostility toward

² Peter Wade, "CPAC Speaker Calls for Eradication of 'Transgenderism' — and Somehow Claims He's Not Calling for Elimination of Transgender People", ROLLING STONE, March 6, 2023, <https://www.rollingstone.com/politics/politics-news/cpac-speaker-transgender-people-eradicated-1234690924/>. ("For the good of society ... transgenderism must be eradicated from public life entirely - the whole preposterous ideology, at every level.")

the broad LGBTQ+ community, with particular animus directed against transgender people.

SB 254 (previously HB 1421) is only one of many laws passed in a years-long push by Florida to discriminate against transgender and other LGBTQ+ individuals, its constitutionality should be viewed, not in isolation, but rather in the overall context of the pattern of legislation written, advocated, and enacted by groups and politicians who have expressly stated their animus towards transgender people and other members of the LGBTQ+ community. Amici urge this Court to recognize the evidence set forth below, which justifies a finding, under the *Arlington Heights* framework, that the laws and regulations at issue in this matter intentionally discriminate against transgender individuals.

ARGUMENT

A. The History of Florida's Legislative Campaign Against the LGBTQ+ Community Demonstrates the State, Board Members, and Florida Legislators Acted Because of Their Animus Toward the Transgender Community When They Passed SB 254 and the Challenged Rules

Since taking office in 2019, Governor DeSantis and the Florida legislature have enacted a series of laws aimed at restricting the rights of the LGBTQ+ community, with a particular focus on eviscerating the rights of transgender individuals.

In 2020, former Florida House Representative Anthony Sabatini introduced HB 1365, entitled the “Vulnerable Child Protection Act.”³ HB 1365 sought to criminalize gender-affirming care for transgender individuals. Representative Sabatini’s bill was a copycat of a 2019 South Dakota bill crafted and lobbied for by an organized network of anti-transgender activists and groups. Although HB 1365 died in committee, it was the harbinger of the anti-LGBTQ+ legislation to come.

The first successful attack on transgender people by the Florida legislature came in 2021 when Governor DeSantis signed the “Fairness in Women’s Sports Act” into law. This law bans transgender women and girls from participating in school sports.⁴ When asked during a hearing if she could point to a single example of a Floridian being harmed by the participation of a transgender female athlete, the bill’s sponsor, Florida House Representative Kaylee Tuck, admitted that she was “not aware of any Florida specific cases.”⁵ Later commenting on the law, Governor DeSantis denied the existence of transgender women, tweeting that “allowing **men** to compete in women’s sports” is a “mockery” and “perpetuat[es] a fraud.”⁶

In February 2022, Governor DeSantis signed HB 1557, the “Parental Rights in Education Act” (commonly known as the “Don’t Say Gay” law). The statute bans

³ @AnthonySabatini, TWITTER (Jan 13, 2022, 11:07 AM) (emphasis added), <https://twitter.com/GovRonDeSantis/status/1506315576674865153>.

⁴ Fla. Stat. § 1006.205.

⁵ SB 1028, Education Sub-Committee, House of Representatives Hr’g Tr. 5:15-6:2 (March 17, 2021).

⁶ @GovRonDeSantis, TWITTER (March 22, 2022, 1:03 PM) (emphasis added), <https://twitter.com/GovRonDeSantis/status/1506315576674865153>.

classroom instruction on or discussion of sexual orientation or gender identity through the third grade.⁷ This law chills the speech of LGBTQ+ community; it rewards parents who seek to enforce violations of the law; and it punishes school districts and teachers who fail to apply the law to hurt LGBTQ+ students. It also “create[s] an environment of censorship and discrimination in classrooms that harms education for all Florida students but is especially hostile in its impact on Black . . . and LGBTQ Floridians.”⁸ The law’s negative impacts are further illuminated by a Williams Institute survey of LGBTQ+ families in Florida in which 88% of the families expressed concern about the effects of the “Don’t Say Gay” law on their children and half of the families said they would consider moving out of Florida because of the law.⁹

Florida legislators enunciated their clear intent in HB 1557: to harm the LGBTQ+ community. Governor DeSantis’s then-press secretary referred to the law as the “Anti-Grooming Bill” and characterized anyone who opposed the law as “probably a groomer or at least you don’t denounce the grooming of four to eight year old children.”¹⁰ These statements perpetuate the false and offensive belief that

⁷Fla. Stat. § 1001.42(8)(3).

⁸ “Why Do They Hate Us So Much?” *Discriminatory Censorship Laws Harm Education in Florida*, HUMAN RIGHTS WATCH (June 19, 2024), <https://www.hrw.org/report/2024/06/19/why-do-they-hate-us-so-much/discriminatory-censorship-laws-harm-education-florida>.

⁹ Abbie E. Goldberg, *Impact of HB 1557 (Florida’s Don’t Say Gay Bill)*, THE WILLIAMS INSTITUTE (January 2023) <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Dont-Say-Gay-Impact-Jan-2023.pdf>.

¹⁰@ChristinaPushaw, TWITTER (Mar. 4, 2022, 6:33 PM), <https://twitter.com/christinapushaw/status/1499890719691051008?lang=en>.

the LGBTQ+ community and their allies are “groomers” who want to “sexualize children.”¹¹

Confirming the beginning of a larger campaign, Representative Randy Fine, then chair of the Florida House’s Health & Human Services Committee, tweeted, “#WeAreJustGettingStarted.”¹² On April 4, 2022, Representative Fine tweeted, “I’ve had enough. Next session I will shepherd legislation to make it illegal to provide drugs or surgery to a minor for ‘gender reassignment.’”¹³ Representative Fine kept his promise.

The effort to target the transgender community took multiple forms and included carefully orchestrated predetermined outcomes planned well before the initiation of the administrative rulemaking and legislative processes underlying the challenged rules and law. In April of 2022, Florida’s Agency for Health Care Administration (“AHCA”) announced it would “review” its coverage of treatment of gender dysphoria and then took only two months to release new standards.¹⁴ AHCA fast-tracked its review by handpicking its “experts” to include anti-trans

¹¹*Governor Ron DeSantis Signs Historic Bill to Protect Parental Rights in Education*, FLGov.com (Mar. 28, 2022), <https://flgov.com/2022/03/28/governor-ron-desantis-signs-historic-bill-to-protect-parental-rights-in-education> (emphasis added).

¹²@VoteRandyFine, TWITTER, (Mar. 31, 2022, 9:17 AM), <https://twitter.com/VoteRandyFine/status/1509520362127691779>.

¹³@VoteRandyFine, TWITTER (Apr. 4, 2022, 11:40 AM) <https://twitter.com/VoteRandyFine/status/1511005843516448773>.

¹⁴Press Release, Agency For Health Care Administration, *Agency for Health Care Administration Releases Generally Accepted Professional Medical Standards Determination on the Treatment of Gender Dysphoria*, Jun. 2, 2023, https://ahca.myflorida.com/content/download/7115/file/6-2-22_AHCA_GAPMS_Press_Release_FINAL.pdf

activists Quentin van Meter¹⁵ and Patrick Lappert,¹⁶ both of whom the district court determined were not qualified to testify as experts. The “research” in the report from these “experts” consisted of unpublished, unscientific, non-peer-reviewed reports,¹⁷ which Judge Hinkle found to be “a predetermined outcome, not a fair analysis of the evidence.”¹⁸ After an administrative hearing process that Judge Hinkle described as “well-choreographed,”¹⁹ the AHCA banned Medicaid coverage for gender-affirming care for all transgender Floridians—not just minors, as was the original pretext for such drastic action. Similar to the AHCA’s rulemaking process, the rulemaking processes of the Board of Medicine, Board of Osteopathic Medicine, Board of Psychiatry, and Board of Psychology (collectively, “the Boards of Medicine” or “the Boards”) – which the district court found significantly deviated from ordinary practices – is another example of “predetermined outcomes” planned long before the challenged rules and laws were initiated, and prior to the existence of the research

¹⁵Evan Meter was disqualified from testifying as a medical expert on gender dysphoria by a Texas court. See Stephen Caruso, *A Texas Judge Ruled That This Doctor Was Not an Expert*, Pennsylvania Capital-Star, Sept. 15, 2020, <https://www.penncapital-star.com/government-politics/a-texas-judge-ruled-this-doctor-was-not-an-expert-a-pennsylvania-republican-invited-him-to-testify-on-trans-health-care/> (reporting that van Meter was disqualified as an expert in a Texas divorce case, now sealed).

¹⁶Lappert was disqualified as an expert by a North Carolina federal court. See Meredithe McNamara, *et al.*, *A Critical Review of the June 2022 Florida Medicaid Report on the Medical Treatment of Gender Dysphoria*, Page 9, July 8, 2022, https://web.archive.org/web/20230116153033/https://medicine.yale.edu/lgbtqi/research/gender-affirming-care/florida%20report%20final%20July%208%202022%20accessible_443048_284_55174_v3.pdf.

Dr. Lappert also publicly stated that gender-affirming care is a “lie,” a “moral violation,” a “huge evil,” and “diabolical.” See *Dekker v. Weida*, 679 F. Supp. 3d 1271, 1279 (N.D. Fla. 2023) (citing Trial Tr., ECF No. 239 at 129-31).

¹⁷*Id.*

¹⁸ See *Dekker*, 679 F. Supp. 3d 1271, 1281.

¹⁹*Id.*

and testimony with which Appellants seek to justify the challenged provisions.²⁰ Rather than following the Boards' ordinary practices – practices designed to be equitable and allow members of the public to provide public comment²¹ – the Boards orchestrated testimony of detransitioners²² and “arranged for speakers to oppose gender-affirming care at the required public hearings.” *Doe Pls.’ Ex. 21*, at 41; *Doe v. Ladapo*, 4:23-cv-114-RH-MAF, 2024 U.S. Dist. LEXIS 105334, at *57 n.112 (N.D. Fla. June 11, 2024) (listing email communications between Board members and staff arranging for testimony from detransitioners coordinated through a national organization known for anti-trans advocacy); *see also* Transcript of Bench Trial Before the Honorable Robert L. Hinkle, United States District Judge, *Doe v. Ladapo*, No. 4:23-cv-114 at 451:15-454:17 (N.D. Fla. Dec. 21, 2023); *Doe Pls.’ Ex. 42*, ECF No. 179-11, pgs. 1-41. Ten out-of-state individuals were directed to “pre-fill out speaker cards”, allowing them (instead of members of Florida’s public) to “be the first to make public comment.” *Doe Pl.’s Ex. 42*, ECF No. 179-11, pg. 1 (executive

²⁰ For example, a chart from the Governor’s office, titled “Gender Dysphoria/Transgender Health Care Policy Pathway”, maps the state’s plan to ban treatments for gender dysphoria from, *inter alia*, the Surgeon General’s guidance in April 2022, the GAPMS report, a “legislative proposal announced following AHCA Report”, and the Boards of Medicine rulemaking “following AHCA report”. These efforts resulted in care effectively being banned. *Doe Pls’ Trial Closing*, No. 4:23-cv-00114-RH-MAF, ECF No. 215-1 at 10 (N.D. Fla. Dec. 28, 2023).

²¹ The Boards’ ordinary practices afforded members of the public the opportunity to be selected at random to provide a public comment if they attended a board meeting in person and filled out a comment card. *Doe Pls.’ Ex. 21*.

²² A “detransitioner” is someone who previously identified as transgender and received medical and/or surgical interventions as a result, but stopped taking these interventions and no longer identifies as transgender in the same way. Vandenbussche, E. (2021). Detransition-Related Needs and Support: A Cross-Sectional Online Survey. *Journal of Homosexuality*, 69(9), 1602–1620. <https://doi.org/10.1080/00918369.2021.1919479>.

director instructing program administrator to “pre-fill out speaker cards for the detransitioners and parent on the list and have them waiting.”). The executive director of the Board of Osteopathic Medicine understood that these ten individuals’ orchestrated testimony “would total one [of the two] hour[s]...[allotted for] public comment” – a clear a violation of the Boards’ standard procedure requiring that “a group...of five or more...[people] wish[ing] to address the Committee...identify one individual...[to] speak on behalf of the group.” *Doe Pl.’s Ex. 42*, ECF No. 179-11, pg. 25; *Doe Pls.’ Ex. 21*, at 41.

Throughout the entirety of the rulemaking processes (by the Boards of Medicine and AHCA) and the entire the legislative process surrounding SB 254 – which span over two years, beginning April 20, 2022 – Appellants failed to identify a single person, “detransitioner” or otherwise, who received inappropriate gender transition care in the state of Florida. *Doe Order Denying a Stay Pending Appeal*, ECF 243 at 4-5 (district court observed that “[w]ith all the state’s resources and the full range of discovery available under the Federal Rules of Civil Procedure, the state was unable to present evidence of even a single instance of improper provision of care in Florida . . . or a single patient who suffered adverse consequences or came to regret care received in [Florida].”); *see also Doe Tr. 514:21-24* (Defendant Dr. Mortensen testifying that, despite the Boards’ reliance on “detransitioner” testimony to justify the bans and restrictions on transgender healthcare, the Boards did not hear

from any detransitioner who received care in Florida); *id.* at 514:25-515:3, 526:20-527:8 (unaware of any medical institution or provider in Florida providing inadequate care, or any patient in the state of Florida who was inappropriately assessed or treated for gender dysphoria); *id.* at 515:4-7 (had no experience with any person regretting their treatment for gender dysphoria); *id.* at 515:8-11 (acknowledged the Board had not received any complaints regarding inappropriate provision of gender-affirming care).

Appellants also omit the fact that none of the detransitioners' testimony – which the Boards and Legislature acknowledge they relied upon in their decision making – was originally shared with Florida lawmakers. Rather, as Plaintiffs proved at trial, the testimony was solicited and coordinated for presentation at “well-choreographed public hearing[s]” to support “predetermined outcome[s]” (*See Dekker*, 679 F. Supp. At 1281), by “arrang[ing] for speakers to oppose gender-affirming care.” *Doe*, 4:23-cv-114-RH-MAF, 2024 U.S. Dist. LEXIS 105334, at *56-57 (“For their part, the Boards departed from their usual procedures, orchestrated public hearings, and single-mindedly pursued the predetermined outcome sought by the Governor and Surgeon General”); *id.* at *57, n.12 (citing twelve different trial exhibits demonstrating that the Boards “arranged for speakers to oppose gender-affirming care at the required public hearings—another departure from usual procedure.”). The extensive facts and evidence demonstrating the ways

in which the state Defendants in both *Dekker* and *Doe* manufactured the statements upon which they now seek to rely support the district court’s detailed and thorough findings of fact on this point. *Doe*, No. 4:23-cv-114-RH-MAF, 2024 U.S. Dist. LEXIS 105334, at *6-*28; *Dekker*, 679 F. Supp. 3d at 1277-98.

On April 14, 2022 – just after the AHCA announced “review” of its coverage of treatment of gender dysphoria, the Florida Department of Education decided to withdraw from the CDC’s Youth Risk Behavioral Survey (“YRBS” or the “Survey”) – a decision that further emphasizes Florida’s effort to discount LGBTQ+ youth.²³ The Survey, in which 47 states participated (including Florida since 1991), monitors “health behaviors that contribute markedly to the leading causes of death, disability, and social problems among youth and adults in the United States” and, notably, also measures how sub-groups like LGBTQ+ youth are faring. It is “a long-standing, trusted source of data that lawmakers, advocates, state agencies, and nonprofits have relied on over the years to identify trends in potentially harmful behavior among Florida’s youth.”²⁴ By refusing to allow students to be counted as LGBTQ+, states and districts that pull out of the Survey (like Florida) are effectively erasing LGBTQ+ youth because if these youth are not included in the surveys, their

²³ Florida Policy Institute Staff, *Florida’s Decision to Withdraw From Youth Risk Behavior Survey Was ‘Done in Darkness,’ Think Tank Says*, FLORIDA POLICY INSTITUTE (April 18, 2022), <https://www.floridapolicy.org/posts/floridas-decision-to-withdraw-from-youth-risk-behavior-survey-was-done-in-darkness-think-tank-says>.

²⁴ *Id.*

experiences and the potential harm from discriminatory policies, cannot be identified. Consistent with its pattern of concealment and deception, Florida’s “decision to withdraw from the survey was done in darkness, without any type of opportunity for public input.”²⁵

In July 2022, the Florida Department of Education Commissioner, Manny Diaz, issued a Memorandum to Florida school districts in response to the United States Department of Education (USDOE) guidance on Title IX that protected LGBTQ+ students from discrimination.²⁶ The Memorandum informed school districts that treating transgender students in accordance with their gender identity would “jeopardize the safety and wellbeing of Florida students and risk violating Florida law.”²⁷ It further emphasized that the Department of Education “will not stand idly by as federal agencies attempt to impose a sexual ideology on Florida schools that risk the health, safety, and welfare of Florida students.”²⁸ Similarly, following Florida’s passage of a school censorship law, the state board of education sent notices to ten school districts notifying them that their district policies, including non-discrimination provisions, “may not comport with Florida law.”²⁹

²⁵ According to Norín Dollard, a senior policy analyst and KIDS COUNT director at FPI. *Id.*

²⁶ Memorandum, Florida Department of Education Commissioner, *Response to Federal Guidance Documents on the Meaning of Sex Discrimination under Title IX and Related Statutes* (July 28, 2022), <https://cloudup.com/c8JtP7hvzxL>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Greg Owen, *Florida schools roll back LGBTQ+ policies to comply with Don’t Say Gay law*, LGBTQ NATION (December 15, 2022), <https://www.lgbtqnation.com/2022/12/florida-schools-roll-back-lgbtq-policies-comply-dont-say-gay-law/>.

In August 2022, Governor DeSantis started actively vocalizing his animus against his transgender constituents, publicly tweeting multiple times that “gender-affirming care is a euphemism for disfiguring kids.”³⁰ Governor DeSantis’s press secretary continued the attack, falsely stating that gender-affirming care is “not counselling,” but only “puberty blockers...and surgeries chopping off private parts.”³¹ Expanding the strategy beyond just messaging, Governor DeSantis fired any state attorneys who refused to enforce laws criminalizing gender-affirming care.³²

Then the Florida legislature got to work again. On February 21, 2023, the Florida House of Representatives Health & Human Services Committee held a hearing on gender affirming care. Although Representative Fine opened the hearing promising a “panel of experts,” the legislators heard only from opponents of gender-affirming care. For example, David Leatherwood of the anti-LGBTQ+ extremist group Gays Against Groomers³³ told the panel he believed that the LGBT community “has been hijacked by trans terrorists . . . like a trojan horse by extremists

³⁰ @GovRonDeSantis, TWITTER (Aug. 16, 2022, 5:00 PM)
<https://twitter.com/GovRonDeSantis/status/1559646179595407362?s=20&t=55DYjYGjIIotEUZx-AY7Og>; @ChristinaPushaw, TWITTER (Aug. 16, 2022, 6:06 PM)
<https://twitter.com/ChristinaPushaw/status/1560750173814689794?s=20&t=ReChkHaAQNRRoiwNfPSCkw>.

³¹ @ChristinaPushaw, TWITTER (Aug. 19, 2022, 6:06 PM),
<https://twitter.com/ChristinaPushaw/status/1560750173814689794?s=20&t=ReChkHaAQNRRoiwNfPSCkw>.

³² Fla. Exec. Order No. 22-176 (Aug. 4, 2022); Fla. Exec. Order No. 23-160 (Aug. 9, 2022)

³³ Although identifying as “gays,” the group pushes false claims and conspiracy theories about parts of the LGBTQ+ community.

in a death cult.”³⁴ The “experts” also included three known opponents of transgender healthcare – Dr. Levine, Dr. Laidlaw, and Dr. Michael Biggs – who were each involved in the AHCA rulemaking and/or Boards of Medicine rulemaking processes, as well as Chloe Cole, one of the detransitioners whose testimony was orchestrated to be presented to the Boards of Medicine. *Doe Pls’ Trial Ex. 27*, ECF No. 178-5, at 5:4-18. Appellants seek to legitimize the legislative process with similar factual distortions used to justify the administrative rulemaking processes and argue that “the legislature invited experts on both sides of the issue to provide commentary.” Plaintiffs-Apellees’ Brief, *Doe v. Surgeon General*, State of Florida, No. 24-11996-J at 34 (11th Cir. Aug. 28, 2024). In reality, the committee did not invite a single medical provider with experience prescribing the at-issue treatments to transgender minors.³⁵ Nor did the committee invite testimony of any transgender person or parent thereof. Inviting a member of a known hate group with no experience using the at-issue treatments to testify as an “expert”, demonstrates the lengths the legislature went to reach its pre-determined outcome. Following the “expert” testimony, bill sponsor Representative Ralph Massullo thanked co-sponsor Chairman Fine for

³⁴Our Community Has Been HIJACKED By Trans Terrorists!, TheDC Shorts, April 3, 2023.

³⁵Appellants’ allege the committee invited *one* “treatment proponent,” a surgeon who does not prescribe the at-issue treatments to minors, but the hearing transcript indicates that bill sponsor Representative Fine was more interested in bashing this surgeon on the record. *See Transcript of House Health and Human Services Meeting Feb. 21, 2023, Doe Pls’ Trial Ex. 38*, No. 4:23-cv-00114-RH-MAF, ECF No. 178-5 at 39:4-20 (N.D. Fla. Nov. 6, 2023) (Fine stated that the invited surgeon “has 280,000 TikTok followers” and “she’s willing to talk about it on TikTok” but “I guess platforms that reach more than children just aren’t interesting.”).

“putting together such a fine panel of experts on this subject”, Representative Anderson thanked the panel for their “informative” and “very eye opening” presentations, and Representative Rizo thanked Mr. Leatherwood specifically for “coming here today and just showing, you know, your intelligence and also just your willingness to speak your mind.” *Doe* Pls’ Trial Ex. 27, ECF No. 178-5, at 58, 59 and 84. At the close of the hearing, Representative Fine compared providers of gender-affirming care to the medical experimentation by the Nazis, stating the comments made him think about “Dr. Mengele” and “the Holocaust.” *Doe* Pls’ Trial Ex. 38, No. 4:23-cv-00114-RH-MAF, ECF No. 178-5. As Appellants’ concede, the legislature also relied upon “the State Medicaid agency’s Generally Accepted Professional Medical Standards” (GAPMS report), which the district court concluded is “a deeply flawed, bias-driven report” that “reached the predetermined conclusion that gender-affirming care for minors was experimental” even though that conclusion was “not supported by...generally accepted professional medical standards.”) Plaintiffs-Apellees’ Brief, No. 24-11996-J, at 34-35; *Doe*, No. 4:23-cv-114-RH-MAF, 2024 U.S. Dist. LEXIS 105334, at *52 (*citing Dekker*, 679 F. Supp. 3d at 1281).

On March 3, 2023, in the wake of the February 2023 hearing on gender affirming care, Representative Fine filed HB 1421 proposing to ban private insurance companies from covering gender-affirming care for Floridians of any age

and to make it a felony for doctors to provide such care to minors.³⁶ Representative Fine announced HB 1421 by tweeting, “The butchering of children will be illegal in Florida, Florida citizens will not be obligated to pay for the sexual mutilation of adults, and those tricked into this evil will have 30 years to sue . . . That’s HB 1421 and I am proud to file it.”³⁷ While speaking on these proposed bills, Florida house legislators openly displayed their animus against the transgender community. Representative Webster Barnaby called transgender Floridians testifying before the Florida House “mutants living among us on Planet Earth,” “demons,” “imps,” and even “Satan.”³⁸ Representative Sabatini, whose 2020 efforts to pass such legislation failed, expressed his animus towards transgender individuals, including by tweeting, “It’s time to stop the transgender mutants and demons without apology”³⁹ and retweeting a call to ban “transgenderism” and “crush Pride Month and the businesses

³⁶Gender Clinical Interventions, HB 1421 (Mar. 22, 2023).

³⁷ @VoteRandyFine, TWITTER Mar. 3, 2023,
<https://twitter.com/VoteRandyFine/status/1631676140304646144>; State Representative Randy Fine. FACEBOOK, Mar. 3, 2023,

https://www.facebook.com/voterandyfine/posts/761831661970637?ref=embed_post.

³⁸ Jim Saunders, *Florida legislator compares transgender people to ‘demons and imps’ as bathroom bill passes*, TALLAHASSEE DEMOCRAT., April 10, 2023,
<https://www.tallahassee.com/story/news/politics/2023/04/10/florida-republican-webster-barnaby-calls-trans-people-demons-mutants/70101438007/>; @Esqueer_, TWITTER (Apr. 10, 2023, 5:11 PM)
https://twitter.com/Esqueer_/status/1645534892409884681?ref_src=twsr%5Etfw%7Ctwcamp%5Etweet_embed%7Ctwterm%5E1645534892409884681%7Ctwgr%5Ed5808d63f6349f5d3bb33f7d9551ec94d0c1c421%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.tallahassee.com%2Fstory%2Fnews%2Fpolitics%2F2023%2F04%2F10%2Fflorida-republican-webster-barnaby-calls-trans-people-demons-mutants%2F70101438007%2F

³⁹@AnthonySabatini, TWITTER (Apr. 11, 2023, 4:36 PM)
<https://twitter.com/VoteRandyFine/status/1511005843516448773>.

that promote that toxic anti-American garbage.”⁴⁰ SB 254 eventually was substituted for HB 1421 with the same content.

After introducing SB 254, Representative Fine promoted a series of other laws that he described as reflection of his intention to “eras[e] a community.”⁴¹

SB 1438, the so-called “Protection of Children” Act, criminalizes drag performances.⁴² Representative Fine, sponsor of the parallel HB 1423 bill, clarified the law was a continuation of the SB 254 campaign intended to “protect our children by ending the gateway propaganda” to transgenderism, “Drag Queen Story Time.”⁴³ Doubling-down, Representative Fine clarified his goal is to “erase” the transgender and larger LGBTQ+ community.⁴⁴ On April 19, 2023, the Florida legislature passed SB 1438.

On May 2, 2023, the legislature passed SB 1580, entitled “Protections of Medical Conscience,” which permits a wide range of healthcare providers and

⁴⁰Tori Otten, *Florida Republican Calls to “Crush” Pride Month for Being “Anti-Christian”* (July 14, 2023, 1:52 PM), <https://newrepublic.com/post/171836/florida-republican-defends-anti-drag-bill-even-means-erasing-community>.

⁴¹Prem Thakker, *Florida Republican Defends Anti-Drag Bill Even If It Means “Erasing a Community”* (April 12, 2023, 2:57 PM), <https://newrepublic.com/post/171836/florida-republican-defends-anti-drag-bill-even-means-erasing-community>.

⁴² 2023 Fla. Laws ch. 2023-94, § 5.

⁴³ State Representative Randy Fine, FACEBOOK (March 3, 2023), https://www.facebook.com/voterandyfine/posts/761831661970637?ref=embed_post.

⁴⁴Christie Zizo, ‘Damn right:’ Florida lawmaker’s controversial comments amid drag show drama (April 12, 2023, 6:4 PM), <https://www.clickorlando.com/news/local/2023/04/12/florida-lawmaker-on-concept-of-erasing-lgbtq-community-over-drag-show-drama-damn-right/>; @Esqueer_, TWITTER (Apr. 12, 2023, 10:57 AM)

https://twitter.com/Esqueer_/status/1646165583170289664?ref_src=twsr%5Etfw%7Ctwcamp%5Etweet_embed%7Ctwterm%5E1646165583170289664%7Ctwgr%5E05e5d39fcf5a21c6c12b14e1006cd4947ba3a64b%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.advocate.com%2Flaw%2Fflorida-drag-lawmaker-erase-lgbtq

insurance companies to refuse to provide or pay for “any health care service on the basis of a conscience-based objection,” which could be any religious, moral, or ethical belief.⁴⁵ This bill endangers all Floridians, but is particularly dangerous for transgender individuals because it creates further barriers for Floridians seeking gender-affirming care. Governor DeSantis signed SB 1580 on May 11, 2023.

On May 3, 2023, the Florida legislature passed two more anti-LGBTQ+ bills: HB 1069 and HB 1521. HB 1069 makes it the “policy” of every Florida public school that a person’s sex is “an immutable biological trait” and that it is “false” to use pronouns that deviate from that definition.⁴⁶ It goes on to ban school employees from using pronouns that match their gender identity, permits anyone to disrespect transgender students’ pronouns, and prohibits *any* discussion of sexual orientation or gender identity up to eighth grade.

HB 1521 bans all transgender people from using facilities that correspond to their gender identity in schools, prisons, or any “public buildings.”⁴⁷ It allows state-sanctioned discrimination against anyone whose appearance does not meet a stranger’s expectations, allowing a person to be questioned about their gender. Referring to transgender women, Co-bill-sponsor, Florida House Representative Dean Black, tweeted: “Men do NOT belong in women’s restrooms,” and HB 1521

⁴⁵ See generally 2023 Fla. Laws ch. 2023-57.

⁴⁶ H.R. Res. 1069 (2023).

⁴⁷ H.R. Res. 1521, Reg. Sess. (2023)

“prohibits biological males from using women’s restrooms in public facilities.”⁴⁸ Like many of the other representatives, Representative Black has outwardly expressed his anti-trans opinions, calling individuals who receive gender transition treatments “disfigured [and] crippled” and labeling such care as “evil”, “gruesome” and “diabolical.” *See Transcript of Florida House General Session, Doe Pls' Trial Ex. 36, No. 4:23-cv-00114-RH-MAF, ECF No. 179-5 at 21-22 (N.D. Fla. Apr. 19, 2023).*

The campaign launched by Florida’s leaders has been tragically effective. On May 4, 2023, the Florida legislature passed SB 254. On May 17, 2023, Governor DeSantis signed twenty-one bills into law.⁴⁹ Five of those laws (SB 254, HB 1069, HB 1438, HB 1521, and HB 225) were targeted against Florida’s transgender youth.⁵⁰ Not even federal judges are immune from the anti-transgender animus of Florida’s legislators. When District Judge Robert Hinkle ruled in favor of Plaintiffs-Appellees on June 6, 2023, Representative Fine tweeted, “We will not stop fighting

⁴⁸ @DeanBlackFL, TWITTER (Apr. 19, 2023, 10:52 PM)
<https://twitter.com/DeanBlackFL/status/1648882371716841475>

⁴⁹ Press Release, Executive Office of Governor Ron DeSantis, *Governor DeSantis Signs 21 Bills*, May 17, 2023, <https://www.flgov.com/2023/05/17/governor-desantis-signs-21-bills/>

⁵⁰ Press Release, Executive Office of Governor Ron DeSantis, *Governor Ron DeSantis Signs Sweeping Legislation to Protect the Innocence of Florida’s Children*, May 17, 2023, <https://www.flgov.com/2023/05/17/governor-ron-desantis-signs-sweeping-legislation-to-protect-the-innocence-of-floridas-children/>

to defend children from those like Hinkle who support child castration and mutilation.”⁵¹

The legislators’ lack of respect is further demonstrated through the State’s blatant disregard for the District Court’s order declaring the Florida Medicaid ban on gender-affirming care unconstitutional. *Dekker*, 679 F. Supp. 3d at 1282. Since 2023, Appellants have continued to apply and enforce the discriminatory rule and statute. AHCA continues to categorically deny coverage for medically necessary gender-affirming care for transgender Floridians; they sent cease and desist orders to Florida MCO’s assessing fines, liquidated damages, and monetary sanctions against the plans for providing coverage for medically necessary gender-affirming medical care; Secretary Weida publicly committed⁵² to enforcing the rule, ignoring the District Court’s finding that it is invalid; and AHCA has demanded that medical institutions refund money to AHCA for services related to the provision of gender-

⁵¹ @VoteRandyFine, TWITTER (Jun 6, 2023, 12:54 PM)

<https://twitter.com/VoteRandyFine/status/1666126325269114887>

⁵² On August 18, 2023, Defendant Secretary Jason Weida appeared as a guest on the Daily Wire Podcast to discuss AHCA’s decision to fine healthcare providers for funding gender-affirming medical care, including warning that his office “would consider more drastic penalties for any further violations.” See Podcast Episode: FL Trans Treatment Fines & Homelessness Rises 8.18.23, MorningWire (August 18, 2023), <https://www.dailystatic.com/podcasts/morning-wire/fl-trans-treatment-fines-homelessness-rises-8-18-23>; see also Megan Basham, “Exclusive: Florida Fines Medicaid Providers for Using Tax Dollars to Cover Trans Treatments for Minors,” DailyWire.com (August 18, 2023), <https://www.dailystatic.com/news/exclusive-florida-fines-medicaid-providers-for-using-tax-dollars-to-cover-trans-treatments-for-minors>. Defendant Weida further stated “[t]hese plans recklessly continued to cover these services with permanent, harmful effects, after the rule was adopted. [They] will not stand in the way of our fight to protect the innocence of Florida’s kids.” Defendant Weida also provided an interview to the Daily Signal, the contents of which are captured in Daily Signal article. See Mary Margaret Olohan, “Florida Becomes First State to Sanction Medicaid Providers for Covering Minor Transitions,” The Daily Signal (August 18, 2023), <https://www.dailysignal.com/2023/08/18/florida-becomes-first-state-to-sanction-medicaid-providers-for-covering-minor-transitions/>.

affirming care (from August 21, 2022 to present). *See Dekker*, 4:22-cv-00325-RH-MAF, ECF 258.

Florida continues to wage war against the transgender community, stripping away the right to possess government-identification documents that reflect a person's gender identity. On January 26, 2024, the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) issued a memo banning gender marker changes on Florida driver licenses, permits, and IDs, including subjecting transgender Floridians to criminal penalties.⁵³ The FLHSMV quietly enacted this policy in the dark after legislation that would have codified such a ban failed to pass. The Florida Department of Health did the same with birth certificates, reversing their longstanding policy on gender marker amendments with no notice, warning, nor rulemaking and denying hundreds of transgender individuals born in Florida access to accurate birth certificates.⁵⁴

⁵³ Memorandum, Florida Highway Safety and Motor Vehicles, *Driver License Operation Manual-Issuance requirements-IR08-Gender requirements (Recession)*, (January 26, 2024), <https://drive.google.com/file/d/1WVxToDc8ODWOSejoGXffCUqFH20QGaTW/view>; Kathryn Varn, *Florida bans transgender people from changing ID to match gender identity*, Axios Tampa Bay (January 30, 2024), <https://wwwaxios.com/local/tampa-bay/2024/01/30/florida-transgender-id-drivers-license-ban>; Orion Rummler and Kate Sosin, *Florida's rule against updating gender on driver's licenses may violate federal law*, 19th News (March 21, 2024), <https://19thnews.org/2024/03/florida-trans-drivers-license-federal-law/>.

⁵⁴ Orion Rummler, *Florida Is Quietly Denying Transgender Residents Updated Birth Certificates* (July 16, 2024), <https://www.them.us/story/florida-denying-transgender-residents-updated-birth-certificates>.

CONCLUSION

Tragically, the lawmakers vested with the responsibility of enacting laws that protect Floridians have waged a campaign against a subset of their constituents by enacting laws and rules that target the LGBTQ+ community in general and transgender people specifically. Consideration of these laws, as well as the views openly expressed by the legislators proposing them, strips away the pretext of SB 254 and lays bare the true animus behind passage of the law. It must be stopped.

Respectfully submitted this 9th day of October, 2024.

/s/ *Angela Vigil*

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CERTIFICATE OF SERVICE

I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit on October 9, 2024, by using the appellate CM/ECF system, and service was accomplished on all counsel of record by the appellate CM/ECF system.

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CERTIFICATE OF COMPLIANCE

This brief complies with: (1) the page limitation of Federal Rule of Appellate Procedure 29(a)(5) because it contains 5,319 words, excluding the parts of the brief exempted by Rule 32(f); and (2) the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Times New Roman) using Microsoft Word (the same program used to calculate the word count).

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